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May 15, 2015

Chief Paul Williams
Springfield Police Department
321 E. Chestnut Expressway
Springfield, Missouri 65802

Subject: Use of deadly force on February 17, 2015, by then Springfield Police Officer Andrew Bath.

Dear Chief Williams,

Any circumstance in which a law enforcement officer uses his or her firearm is appropriately the subject of close scrutiny. At the same time, I recognize that the use of deadly force by a law enforcement officer invites second-guessing of difficult decisions that must be made in a split-second under adverse conditions and based upon fragmentary information while confronting potentially deadly threats. The facts of each case and the totality of the circumstances facing each officer must be kept firmly in mind as we judge the reasonableness of an officer's actions. An officer's conduct in these situations cannot be fairly evaluated by hindsight speculations.

The sole responsibility of the Prosecuting Attorney in this case is to determine whether the officer committed a criminal act by using deadly force or whether the officer justifiably used deadly force and, therefore, did not commit a criminal violation under Missouri law.

Opinion

Under the totality of the circumstances, Officer Bath reasonably believed that his use of deadly force was necessary to protect himself against the imminent danger of death or serious physical injury at the hands of Michael Ireland. Accordingly, under Missouri law, Officer Bath's use of deadly force was a justified use of deadly force in self-defense and not a criminal act.

Facts & Analysis

On February 17, 2015, the 911 Emergency Communications Center received a call from a passing motorist concerning suspicious activity in the area of 1927 W. Division Street in Springfield. At 10:07 p.m., the dispatcher used the Computer Aided Dispatch system to put out the following information to Patrol Officers:

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MW UNK DESC IN 2000S RED JETTA IN THE PARKING LOT OF T&E TIRE SHOP.
MW HAT, DRK CLOTHING, UNK WEAPONS, UNK INTOX. IN THE ROAD
CLR ADV 2 M ARE "LOOKING SUSPICIOUS" IN THE AREA
E OF LOC

At 10:08 p.m., Officer James Whitehead (radio # 332) responded that he would take this "check a person call" and began driving to the location. Moments later Officer Andrew Bath (radio #323) responded that he would take the back up. At 10:10 p.m., Officer Michael Walker (radio #232) responded that he was in the area of Officer Whitehead's call.

Officer Walker was the first officer to arrive on scene. As Officer Walker was driving west on Division Street, he did not observe anyone at the tire shop at 1927 W. Division Street. Officer Walker continued to drive West on Division Street and on the south side of Division Street, he spotted a small red car parked near the entrance of the closed business at 2006 W. Division. The interaction between Officer Walker and the occupants of the red car was captured on Officer Walker's dash mounted camera.

- At 10:12 p.m., Officer Walker's dash camera captures his approach to 2006 W. Division.
- At 10:12:23, the red car's lights come on.
- At 10:12:29, the red car begins to pull eastbound onto Division Street. In response Officer Walker turns toward the red car and activates his emergency lights.
- At 10:12:32, the red car stops with its front wheels in Division Street and its rear wheels still in the business entryway. (See attached Exhibit A showing relative locations)
- At 10:12:34, Officer Walker illuminates the red car with his spotlight.
- At 10:12:35, the passenger door of the red car opens and Michael Ireland exits the vehicle and while shielding his face from view begins to walk away from Officer Walker to the southwest.
- At 10:12:41, Officer Walker calls to Ireland and says "Hey, stop." Officer Walker shines his flashlight on Ireland's back and Ireland begins to run.
- At 10:12:48, Officer Walker radios, "232, 232, 232 rush, 232, rush" as he walks over to contact the driver of the red car. (Note a blue car that had stopped to assist the red car is also visible on the video, See Exhibit A for relative location)
- At 10:12:52, Officer Bath's patrol SUV drives west by Officer Walker's vehicle on Division and turns south down the alley in pursuit of Ireland.

Officer Bath radios, "I've got one running." Dispatch replies "one running, direction of travel." Officer Bath replies, "South on La Fontaine." Dispatch replies, "Clear, southbound on La Fontaine, description?" Officer Bath replies, "Going down alleyway; I believe he hopped a fence." Officer Bath next radios, "He's going southbound, now he's doubling back east." At 10:14:19 on Officer Walker's dash camera a single gunshot can be heard and Officer Walker

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radios, "I'm hearing shots fired." Immediately following Officer Walker's transmission, Officer Bath radios, "shot fired." Dispatch replies, "Clear, shots fired." Officer Bath replies, "I'm stable. He was reaching."

Officer Bath wrote a report, was interviewed and provided the following description of his pursuit of Ireland.

- Based on the dispatch and recent crime trends in the area, involving vehicle break-ins and thefts, Officer Bath was suspicious of a possible crime being committed due to several people on the property and the time of day.
- While following Officer Walker west on Division, Officer Bath observes Officer Walker initiate the car stop and then sees Ireland running from the red car.
- Officer Bath drives his marked patrol SUV (a Ford Explorer) south partially down the alley that is to the west of 2006 W. Division. (See attached Exhibits B, C and D showing location)
- Officer Bath observed Ireland cross a fence so he stopped his patrol SUV in the alley and pursued Ireland over the fence on foot. (See attached Exhibits E, F, G, H and I).
- Once across the fence, Officer Bath observed Ireland running to the west on the north side of and toward the front of 1446 N. Marion. (See attached Exhibits J and K).
- Officer Bath observed Ireland turn to the south running across the front of 1446 N. Marion so Officer Bath ran parallel to the south across the back yard of 1446 N. Marion and removed his Taser from its holster. (See attached Exhibits L and M).
- Officer Bath then ran west along a fence between 1446 and 1444 N. Marion to the front yards where he observed Ireland at the southwest corner of 1444 N. Marion. (See attached Exhibits N and O).
- Officer Bath began to continue to pursue Ireland to the south when Ireland turned back to the east running down the south side of 1444 N. Marion. (See attached Exhibits N and P).
- Officer Bath then turned east and went down the north side of 1444 N. Marion. (See attached Exhibits P and Q).
- As Officer Bath reached a chain link gate at the northeast corner of 1444 N. Marion he was confronted by Ireland who had circled 1444 N. Marion and had arrived at the same gate from the opposite direction and was now within a few feet of Officer Bath (See Exhibit Q).
- Officer Bath yelled at Ireland, "Stop or I am going to Tase you." Ireland replied "Okay" but began reaching for his waistband.
- Officer Bath deployed his Taser, the probes struck Ireland in the chest and Ireland fell backwards.
- Officer Bath administered a five second cycle of the Taser and commanded Ireland to "put your arms out to the side."
- Immediately after the Taser cycle ended, Ireland started to reach down towards his waistband with both hands while Officer Bath continued to command Ireland to put his arms out to the side.

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- Ireland did not comply and Officer Bath administered a second five second cycle of from the Taser while yelling at Ireland again to put his hands out to the side.¹
- At this point, Officer Bath transitioned his Taser from his right hand to his left hand and drew his duty weapon.
- Officer Bath fearing that Ireland was reaching for a gun or some type of weapon continued to command Ireland to put his hands out to the side and warned Ireland, "If you don't, I am going to shoot you."
- Officer Bath observed Ireland lean up off the ground and again reach toward his waistband.
- Officer Bath told Ireland "Stop or I am going to shoot." Ireland did not stop but kept reaching toward his waistband and Officer Bath fired one round from his duty weapon striking Ireland in the chest killing him.^{2 3}
- Officer Bath stated that he fired his duty weapon because he feared Ireland was going to pull out a gun or other weapon and kill or seriously injure him. Officer Bath further explained that he could not attempt to control and handcuff Ireland while he was under the power of the Taser because of the chain link gate between them.

Officer Bath's account of the chase is corroborated by the physical evidence at the scene including, but not limited to, Officer Walker's dash camera footage and photographs of the scene including footprints left in the snow during the pursuit.

During his final encounter with Michael Ireland, Officer Bath was positioned along and near the end of the north wall of 1444 N. Marion. To Officer Bath's immediate right was the wall of the house, to his immediate left, approximately six feet from the north wall of the house, was an approximately five foot tall wire fence that ran parallel to the wall and extended to his rear past the front of the house, and to Officer Bath's immediate front was the chain link gate. The narrow space between 1444 and 1446 N. Marion also limited illumination available to Officer Bath such that he was in the dark and when Ireland came around the corner, Ireland was also in the dark silhouetted by the light behind him. In this position, Officer Bath found himself in a fatal funnel, that is, a confined area with no cover or concealment that limited his tactical options when Ireland refused to comply with Officer Bath's commands. See attached Exhibit Q.

Reasonable, prudent, and properly trained police officers know that their ability to perceive a deadly threat, formulate a response, and react effectively in self defense is a practical impossibility if that process involves waiting for a suspect to actually produce a concealed weapon that the totality of the circumstances reasonably indicates he is attempting to retrieve.

¹ Records downloaded from Officer Bath's Taser show that the second Taser cycle was administered one second after the first, corroborating Officer Bath's statement that he administered the second cycle when Ireland immediately reached for his waistband at the end of the first cycle.

² After adjusting for differences in system clocks, the evidence is that Officer Bath fired the shot from his duty weapon approximately eleven seconds after the end of the second Taser cycle.

³ The autopsy found that the cause of death was a penetrating gunshot wound of the chest and that the wound track entered the pericardium, then the right ventricle and ascending aorta then transected the pulmonary artery.

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The most recognized and objective scientific body of knowledge related to this "action vs. reaction" process is the Force Science Research Center located at the University of Minnesota-Mankato.⁴ The center has studied the scientific process of threat assessment and police response, and documented in research publications that police officers are incapable of effectively defending against "gun in the waist band" suspects.⁵

It is not possible to know why Ireland failed to comply with Officer Bath's commands. It should be noted that Robert Reed, the driver of the small red car, reported that earlier in the day he and Ireland had crushed up opiate pills and injected them into the veins in their arms. The toxicology report that accompanied Ireland's autopsy was positive for the opiates: oxydocone, morphine and oxymorphone.

Note Concerning Delay Occasioned by Additional Investigation

Note my review was delayed by additional investigation occasioned by an April 21, 2015, newspaper report wherein an attorney for one of Ireland's family members alleged that there was at least one unidentified witness who had heard Michael Ireland attempt to surrender to Officer Bath prior to the shot being fired. It was later learned that the attorney was referring to two individuals who were allegedly at the scene and who had indicated that law enforcement had not contacted them for a statement.

The additional investigation that followed found that the witnesses referred to in the article, Robert Reed (the driver of the small red car) and Morgan Greenhaw (Michael Ireland's fiancé) had, in fact, been interviewed by the lead investigator immediately following this event on February 18, 2015, and that those interviews were recorded. During Reed's initial and follow-up interviews, he consistently stated that he neither heard Ireland make any statements after he left Reed's vehicle nor did Reed see Ireland's flight.

During Greenhaw's initial interview on the morning of February 18, 2015, she and Ronald Davis, with whom she had been present at 2020 W. Division during the incident, both indicated that they did not know what had happened to Michael Ireland. With regard to what she observed Ireland and Reed doing on the evening of February 17, 2015, Greenhaw stated in her initial interview:

They were just going to roll start it and then I looked out the door and someone in a blue car – I don't know who it was – pulled in and told them they would help them. Just give them a jump so he didn't have to push it out of the snow. And I came back inside because I wasn't gonna leave his [Davis's] door wide open. It was freezing.

Later in the initial interview, Greenhaw stated:

⁴ <http://www.forcescience.org/>

⁵ <http://www.forcescience.org/articles/shotinback.pdf>, sections 3-4

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And after he got his car jumped finally, I guess it took 20, 30 minutes, I don't know what happened after that.

At the conclusion of the initial interview, Greenhaw asked the investigator:

Um, whenever you get more information on what happened in that alley last night can you call me?

In her interview subsequent to the newspaper article, Greenhaw: claimed to have seen Ireland run from the red car, claimed to have seen a police officer chase Ireland on foot from the area of the red car and then stop after Ireland jumped the fence, denied seeing a police SUV drive down the alley, and claimed to have viewed and heard Ireland in the back yard of 1444 N. Marion from a vantage point on the fence behind 2020 W. Division just prior to the shot being fired. In contrast, Ronald Davis, the person Greenhaw was with during the time period of the incident, has consistently stated that neither of them left his house and neither of them heard or saw what happened to Michael Ireland.

Based upon my review of the evidence in this case, Officer Walker's dash camera footage, the crime scene, Greenhaw's initial interview and the interviews of Ronald Davis, I find Ms. Greenhaw's subsequent allegations incredible.

Conclusion

Under the totality of the circumstances, Officer Bath had a reasonable suspicion of criminal activity and the authority to pursue and detain Michael Ireland. Further, Officer Bath had no duty to retreat during the confrontation with Michael Ireland. Finally under the totality of the circumstances, Officer Bath reasonably believed that his use of deadly force was necessary to protect himself against the imminent danger of death or serious physical injury at the hands of Michael Ireland. Accordingly, under Missouri law, Officer Bath's use of deadly force was a justified use of deadly force in self-defense and not a criminal act.

There will be no further action by this office with regard to the conduct of Officer Bath in this case.

A handwritten signature in dark ink, appearing to read "Dan Patterson". The signature is fluid and cursive, with the first name "Dan" being larger and more prominent than the last name "Patterson".

Dan Patterson
Prosecuting Attorney

W Division St



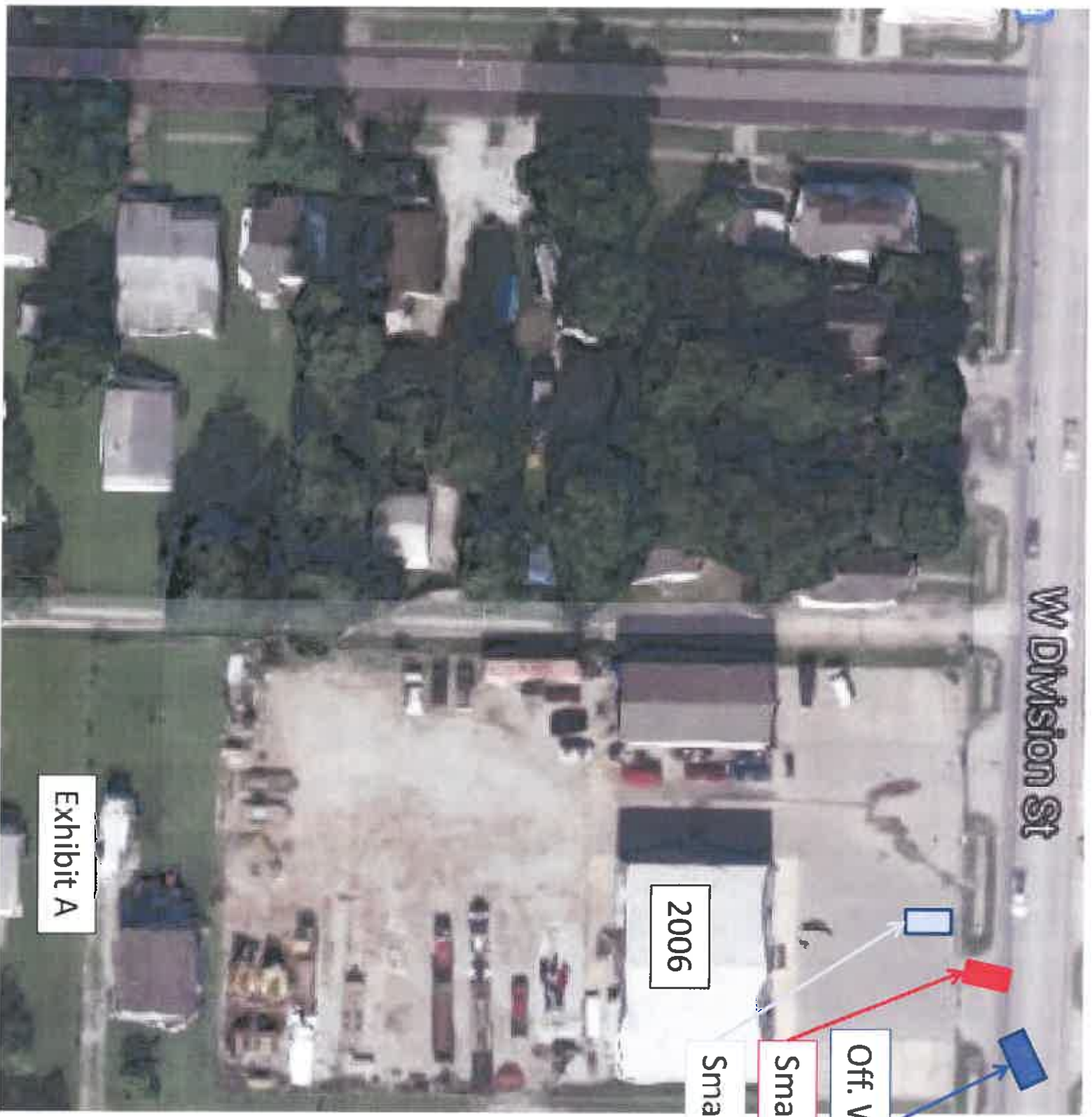
Off. Walker

Small red car

Small blue car

2006

Exhibit A





W Division St

Off. Bath

2006

Small blue car

Small red car

Off. Walker

Exhibit B

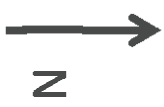


Exhibit C



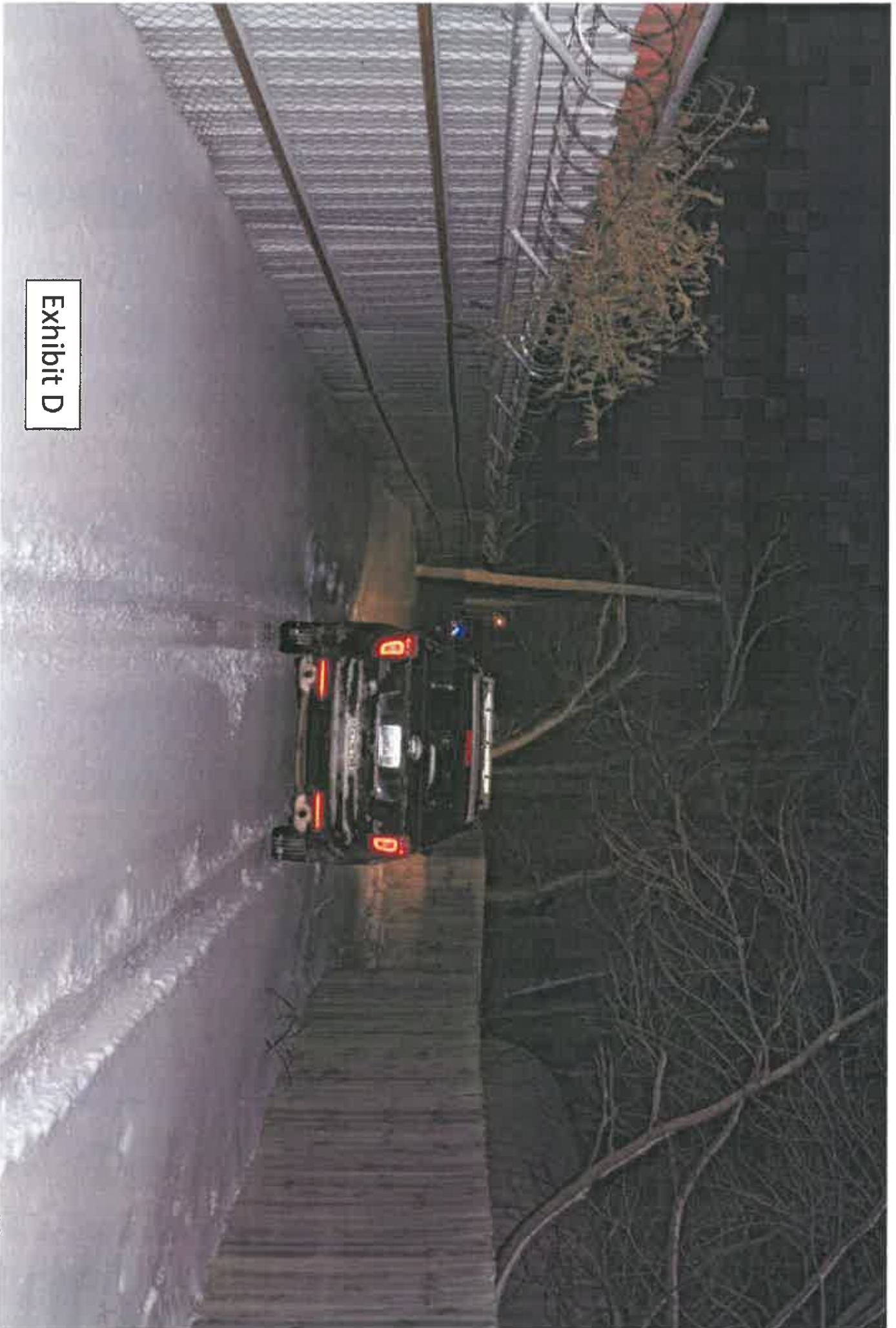


Exhibit D



Exhibit E



Exhibit F

Exhibit G



Exhibit H



N Marion Ave

Exhibit I

N

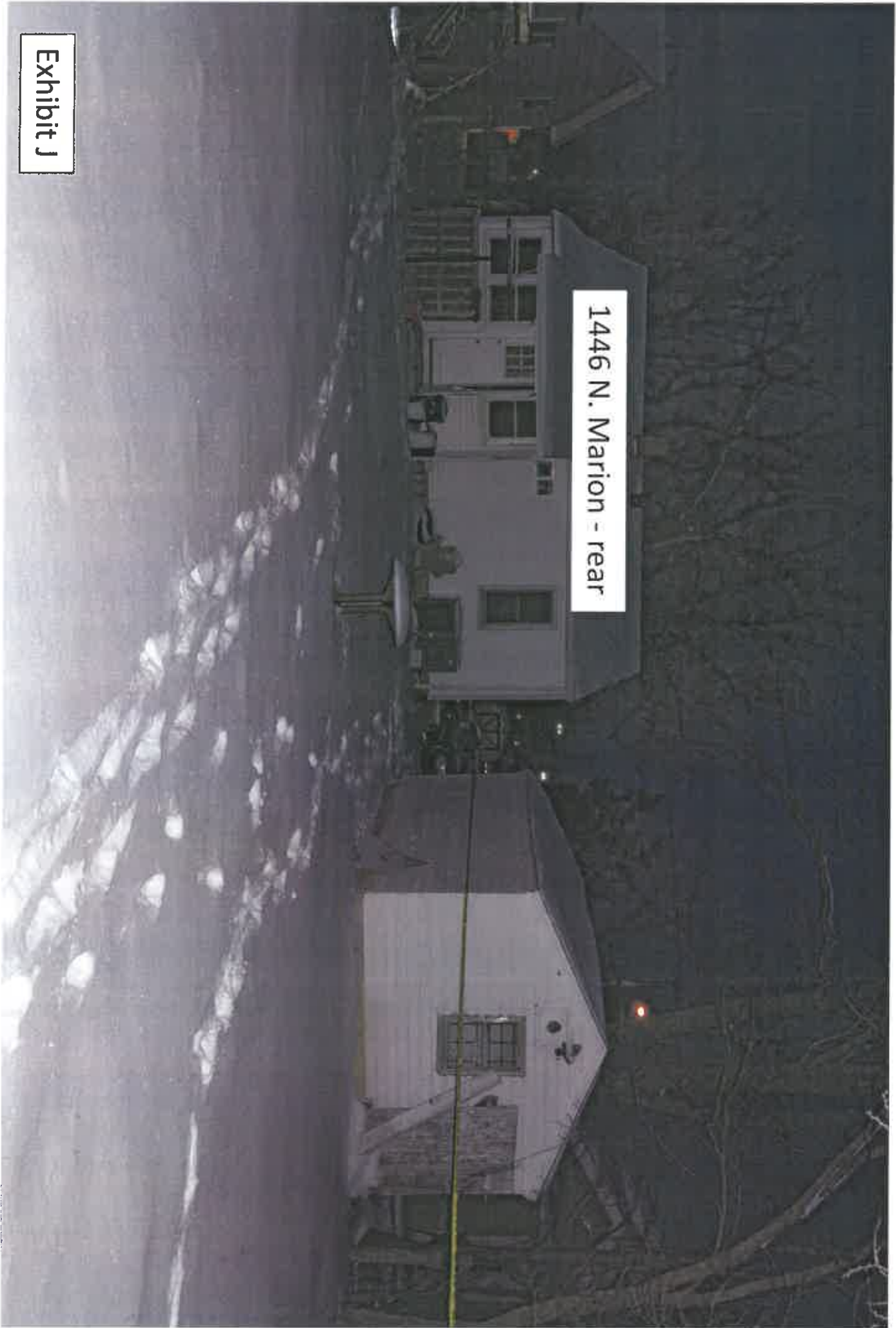
1446

1444



1446 N. Marion - rear

Exhibit J



N Marion Ave

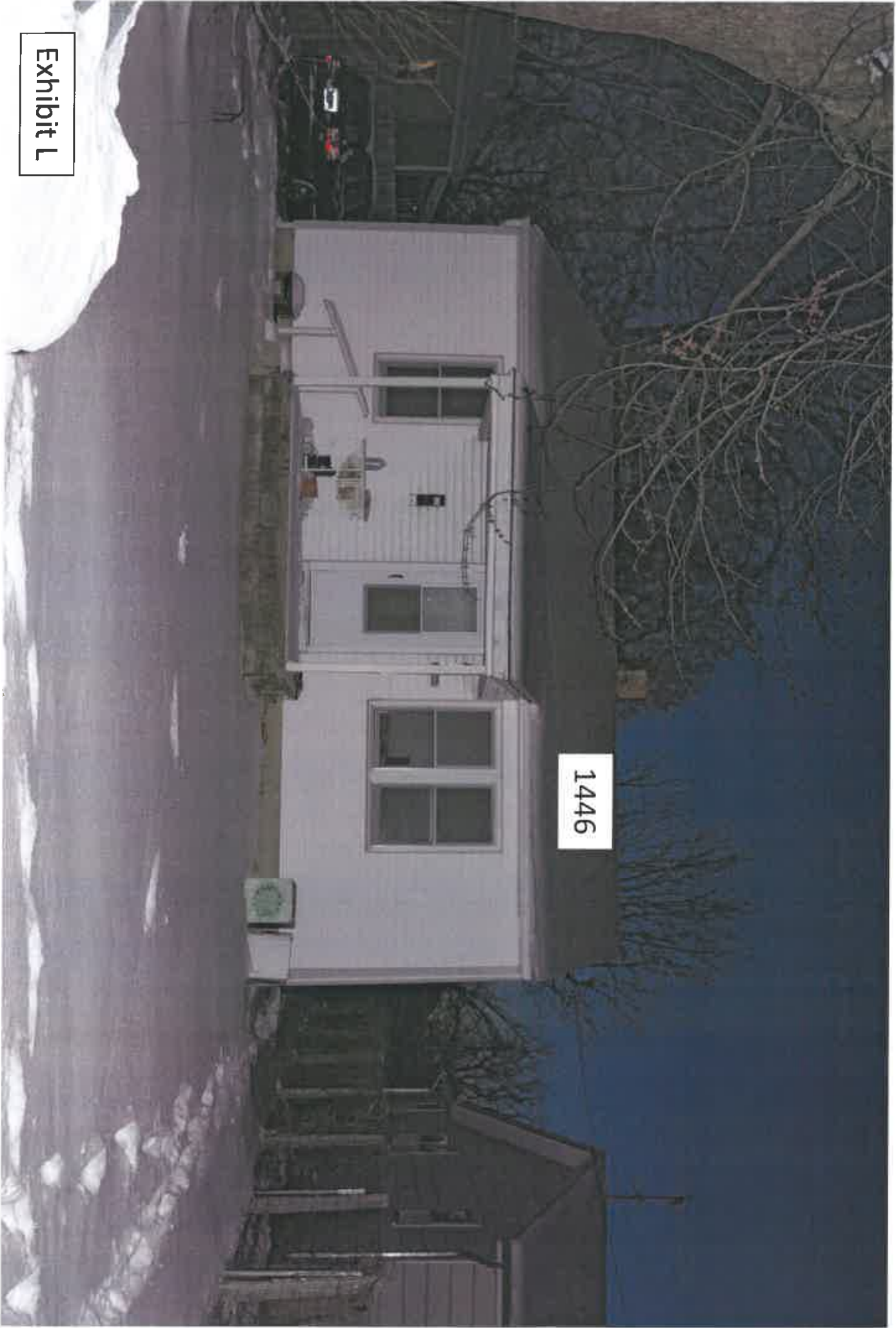
Exhibit K

N

1444

1446





1446

Exhibit L

N Marion Ave

Exhibit M

N

1444

1446





Exhibit N

N Marion Ave

Exhibit O

N

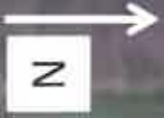
1446

1444



N Marion Ave

Exhibit P



1444

1446



Exhibit Q

1444

